

AMENDED IN ASSEMBLY JULY 15, 2009

AMENDED IN ASSEMBLY JUNE 25, 2009

AMENDED IN ASSEMBLY JUNE 16, 2009

AMENDED IN SENATE APRIL 28, 2009

SENATE BILL

No. 138

Introduced by Senator Liu

February 11, 2009

An act to amend Section 7287 of the Revenue and Taxation Code, relating to local taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 138, as amended, Liu. Local taxes: graffiti.

Existing law authorizes a city or county, or city and county to levy a tax, as provided, on the sale at retail within its jurisdiction of aerosol paint containers, felt tip markers, as specified, and marking substances or instruments at the rate of no more than \$0.10 per aerosol paint container or container of other marking substance, and no more than \$0.05 per felt tip marker meeting specified requirements or other marking instrument. Existing law requires the State Board of Equalization to enforce and administer these provisions.

This bill would increase the amount of the tax authorized to be levied under these provisions ~~from \$0.10 to \$0.25 per aerosol paint container or felt tip marker meeting specified requirements~~, would revise the definition of an aerosol paint container, and would delete the authorization for the levy of a tax for containers of other marking instruments, ~~felt tip markers meeting specified requirements~~, and other marking substances. The bill would also require any jurisdiction implementing the tax to provide retailers of ~~aerosol paint containers~~

products subject to the tax the option to store or display the products in an area continuously observable by employees, as specified, or in an area not accessible to the public without employee assistance.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7287 of the Revenue and Taxation Code
2 is amended to read:

3 7287. (a) The legislative body of any city or county, or city
4 and county, may levy a tax by an ordinance approved by two-thirds
5 of the electors voting on the measure, in addition to any other tax
6 authorized by this division, on the privilege of selling at retail
7 within its jurisdiction aerosol paint containers *or felt tip markers*
8 *that have a flat or angled writing surface of one-half inch or*
9 *greater* at the rate of no more than twenty-five cents (\$0.25) per
10 aerosol paint container *or per felt tip marker*.

11 (b) (1) For purposes of this chapter, “aerosol paint container”
12 means a pressurized coating product containing pigments and
13 resins that dispenses product ingredients by means of a propellant,
14 and is packaged in a disposable can for hand-held application, or
15 for use in specialized equipment for ground traffic or ground
16 marking applications. “Aerosol paint container” does not include
17 aerosol lubricants, mold releases, automotive underbody coatings,
18 electrical coatings, cleaners, belt dressings, antistatic sprays, layout
19 fluids and removers, adhesives, maskants, rust converters, dyes,
20 ink, leather preservatives, and cleaners.

21 (2) *For purposes of this chapter, “felt tip marker” means any*
22 *broad-tipped indelible marker or similar implement containing*
23 *an ink that is not water soluble.*

24 (c) The tax authorized by this chapter shall not be considered
25 for purposes of the combined rate limit established by Section
26 7251.1.

27 (d) Any jurisdiction implementing the tax authorized by this
28 chapter shall provide retailers of ~~aerosol paint containers~~ *products*
29 *subject to the tax* the option to store or display such products in
30 an area continuously observable, through direct visual observation
31 or surveillance equipment, by employees of the retail establishment

- 1 during the regular course of business, or in an area not accessible
- 2 to the public without employee assistance.

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